

NOTICE OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATION

March 20, 2001

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division of Water

(1) 401 KAR 5:074. KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations. The subject matter of the administrative regulation to be promulgated is KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations.

(2) The Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Tuesday, May 22, 2001, 6:30 PM (Central Time) at the Byrnes Auditorium, Madisonville Technical College, 750 North Laffoon, Madisonville, KY.

(4)(a) The public hearing will be held if it is requested at least ten (10) calendar days prior to May 22, 2001. The request must be in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to May 22, 2001, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least ten (10) calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing or to submit written comments should mail or fax their written request to the following address: Jack A. Wilson, Director, Division of Water, 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601, telephone number (502) 564-3410, fax number (502) 564-0111.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing." or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Division of Water at the address listed in (5)(a) above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations is KRS 224.10-100, 224.16-050, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110, and 33 U.S.C. 1342.

(b) The administrative regulation that the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, intends to promulgate will not amend an existing administrative regulation. It will establish certain KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations.

(c) The Necessity and Function of the proposed administrative regulation is as follows: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe permits to discharge into any waters of the Commonwealth. KRS 224.16-050 further empowers the cabinet to issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act. KRS 224.20-110 authorizes the cabinet to regulate the emission or discharge of air contaminants into the air under the jurisdiction of the Commonwealth. This administrative regulation establishes certain conditions applicable to KPDES permits for beef, dairy, poultry, and swine concentrated animal feeding operations.

(d) The benefits expected from the administrative regulation are: The citizens of the Commonwealth will be assured that beef, dairy, poultry, and swine concentrated animal feeding operations will not impact the waters or air quality of the Commonwealth.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the permitting of beef, dairy, poultry, and swine concentrated animal feeding operations will be governed by the provisions contained in this administrative regulation. Copies of emergency administrative regulation 401 KAR 5:074E are available from the Division of Water at the address listed in (5)(a) above.